

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

TRISHA PENCE,	)	
	)	Case No.: 1:19-cv-00288
Plaintiff,	)	
	)	
vs.	)	
	)	
WESTERN EXPRESS, INC. and	)	
JERRY ROSS,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendants, Western Express, Inc. and Jerry Ross, by counsel and pursuant to 28 U.S.C. §§ 1441 & 1446, et seq., hereby respectfully provide their Notice of Removal of this action from the Allen Superior Court (Indiana), to the United States District Court for the Northern District of Indiana, Fort Wayne Division, and, in support thereof, state as follows:

1. Plaintiff, Trisha Pence ("Plaintiff"), filed her Complaint for Damages on May 22, 2019, in the Allen Superior (Indiana) Court. Service of the Summons and Complaint was achieved on Defendant, Western Express, Inc. on June 3, 2019 by certified mail. Service of the Summons and Complaint was achieved on Defendant, Jerry Ross on June 5, 2019 by certified mail. The case is docketed there as Cause No. 02D02-1905-CT-000301. A true and accurate copy of the Complaint, Summons and Appearance are attached hereto as Exhibit A.

2. Plaintiff is a resident and citizen of Indiana.

3. Defendant, Western Express, Inc. is incorporated in Tennessee, and its principal place of business is Tennessee.

4. Defendant, Jerry Ross, is a resident and citizen of Virginia.

5. Plaintiff is seeking compensation for personal injuries including, but not limited to, a miscarriage, she suffered and that she claims was the result of a November 28, 2018 motor vehicle accident in which involved a collision with a tractor-trailer unit operated by Defendant Jerry Ross, who was driving under the interstate operating authority of Western Express, Inc.

6. Plaintiff made a pre-suit settlement demand of \$350,000.00. Therefore, Defendants believe, in good faith, that Plaintiff is claiming an amount in controversy in excess of \$75,000.00, exclusive of interest and costs.

7. Where there is complete diversity of citizenship between the parties and the amount in controversy is in excess of \$75,000.00, there is subject matter jurisdiction over this case pursuant to 28 U.S.C. §1332(a).

8. This matter is removable pursuant to 28 U.S.C. §1441(b) where there is complete diversity of citizenship between the parties.

9. That pursuant to 28 U.S.C. §1446 filed herewith and by reference made a part hereof is a true and correct copy of all process, pleadings and orders served upon Defendants in this action.

10. The Notice of Removal was filed within 30 days, from which Defendants first ascertained the case is one which is removable and was also filed within one year of commencement of the state court action.

11. Accordingly, pursuant to 28 U.S.C. § 1332 (a)(1), this Court has original jurisdiction of this action because the amount in controversy is in excess of the sum of \$75,000.00, exclusive of interest and costs, and the parties are citizens of different states. Therefore, removal is appropriate under 28 U.S.C. § 1441(b).

12. Venue is proper in this district because Plaintiff filed her original state court action in Allen County, Indiana.

13. True and accurate copies of the Notice of Removal with accompanying exhibits will be promptly filed with the Clerk of the Allen Superior Court and also served upon all counsel of record in the Allen County case.

14. By filing this Notice of Removal, Defendants do not waive any defenses available to them.

WHEREFORE, Defendants, Western Express, Inc. and Jerry Ross, by counsel, hereby respectfully provide this notice that this action is removable to this Court from the Allen Superior Court, Indiana, pursuant to 28 U.S.C. § 1441, seek its removal to this Court, and pray for any and all other necessary and proper relief in the premises. Defendants further pray that there be no further proceedings in this action in the Allen Superior Court, Indiana.

Date: June 27, 2019

Respectfully submitted,

**/s/Michael B. Langford**

Michael B. Langford

Attorney No. 18046-53

**Scopelitis, Garvin, Light, Hanson &  
Feary, P.C.**

10 West Market Street, Suite 1400

Indianapolis, IN 46204

Tel. (317) 637-1777

Fax (317) 687-2414

[mlangford@scopelitis.com](mailto:mlangford@scopelitis.com)

Attorney for Defendants,

Western Express, Inc. and Jerry Ross

4816-1447-6952, v. 1